

75-3-102 Necessity of order of probate for will.

Except as provided in Section 75-3-1201, to be effective to prove the transfer of any property or to nominate a personal representative, a will must be declared to be valid by an order of informal probate by the registrar, or an adjudication of probate by the court, except that a duly executed and unrevoked will which has not been probated may be admitted as evidence of a devise if both:

- (1) no court proceeding concerning the succession or administration of the estate was commenced during the time period for testacy proceedings; and
- (2) either the devisee or the devisee's successors and assigns possessed the property devised in accordance with the provisions of the will, or the property devised was not possessed or claimed by anyone by virtue of the decedent's title during the time period for testacy proceedings.

Amended by Chapter 364, 2013 General Session